

Amendments to the California Rules of Court

Adopted by the Judicial Council
Effective December 2, 1999, and January 1, 2000

Rule 708. Transitional procedures

- (a) **[Presiding judge of the unified court]** The presiding judge of the superior court shall serve as the acting presiding judge of the unified court until an election is held. An election of the presiding judge for the unified court shall be held no later than 90 days after the operative date of the unified court. The acting presiding judge may implement transitional statutory requirements. In those counties where a single countywide presiding judge has previously been elected under to an approved coordination plan, the presiding judge shall serve as the presiding judge of the unified court until the end of his or her term.
- (b) **[Executive officer of the unified court]** The executive officer of the superior court, or the single countywide executive officer selected under an approved coordination plan, shall serve as the acting executive officer of the unified court. The acting executive officer shall serve the unified court until an executive officer for the unified court is selected. In those counties where a single countywide executive officer has previously been selected under an approved coordination plan, the executive officer shall continue to serve the unified court at the pleasure of a majority of the judges of the unified court or under the terms of selection.
- (c) **[Memorandum of agreement]** Notwithstanding subdivisions (a) and (b), a majority of the judges of the superior court and a majority of the judges of the municipal court may, on or before the date of unification, adopt a memorandum of agreement that names the presiding judge or executive officer of the unified superior court. The memorandum of agreement may adopt changes in local rules or policies governing the internal management of the unified superior court, which may take effect upon or after unification on a date other than as provided in Government Code section 68071.

(Subd (c) adopted effective December 2, 1999.)

Rule 708 amended effective December 2, 1999; adopted effective June 3, 1998, the effective date of the trial court unification measure (Prop. 220).

TITLE FIVE. SPECIAL RULES FOR TRIAL COURTS
DIVISION III. JUDICIAL ARBITRATION ALTERNATIVE
DISPUTE RESOLUTION RULES FOR CIVIL CASES

CHAPTER 1. Judicial Arbitration Rules

Rule 1600 * * *

Rule 1600.1. Applicability of rules

The rules in this ~~division III~~ chapter (commencing with rule 1600) apply if Code of Civil Procedure, part ~~III~~ 3, title 3, chapter 2.5 (commencing with section 1141.10) is in effect.

Rule 1600.1 amended effective January 1, 2000; previously amended effective July 1, 1999; adopted effective January 1, 1988.

Rules 1600.5–1618 * * *

CHAPTER 2. Civil Action Mediation Program Rules

Rules 1630–1639 * * *

CHAPTER 3. Mediation Pilot Program Rules

Rule 1640. Purpose and application

The rules in this chapter implement title 11.5, commencing with section 1730, of part 3 of the Code of Civil Procedure, relating to mediation pilot programs and, as provided in section 1730, apply only to the pilot program courts selected by the Judicial Council.

Rule 1640 adopted effective January 1, 2000.

Rule 1640.1. Exemption from pilot program

The following types of actions are exempt from the mediation pilot programs under Code of Civil Procedure section 1730 et seq.:

- (1) Class actions,
- (2) Small claims actions,
- (3) Unlawful detainer actions, and

- (4) Actions subject to arbitration pursuant to subsection (d) of Code of Civil Procedure section 1141.11.

Rule 1640.1 adopted effective January 1, 2000.

Rule 1640.2. Cases exempt from mandatory referrals to mediation

The following cases are exempt from mandatory referral to mediation under Code of Civil Procedure section 1730 et seq. and these rules:

- (1) Any case that has previously been ordered to mediation pursuant to Code of Civil Procedure section 1730 et seq.
- (2) Any case in which the parties file a joint statement certifying that all parties have previously participated in a voluntary mediation.
- (3) Any case in which a stipulation by all parties to participate in a mediation is filed at or before the early status conference.

Rule 1640.2 adopted effective January 1, 2000.

Rule 1640.3. Panel of mediators

- (a) Each pilot program court shall maintain a panel of mediators.
- (b) Each court, in consultation with local ADR providers and bar associations, shall establish the minimum qualifications required for a mediator to be included on the court's panel, including training and experience requirements. In developing these minimum requirements, the court shall take into consideration section 33 of the Standards of Judicial Administration and section 3622 of title 16, California Code of Regulations, relating to the Dispute Resolution Programs Act. The required qualifications shall not include membership in the State Bar or a local bar association.
- (c) Each court shall adopt ethical standards applicable to the mediators on the court's panel. These ethical standards shall include, but not be limited to, provisions addressing mediator disclosure, impartiality, and avoidance of bias or the appearance of bias, both during and after the mediation.

- (d) In courts authorized to make voluntary referrals to mediation, as a condition for inclusion on the court's panel, each court shall require that mediators agree to serve on a pro bono or reduced-fee basis in at least one case per year, if requested by the court.

Rule 1640.3 adopted effective January 1, 2000.

Rule 1640.4. Early mediation status conference

- (a) A pilot program court may hold an early mediation status conference, as provided in Code of Civil Procedure section 1734.
- (b) A pilot program court may provide by local rule for the cancellation or continuation of the early mediation status conference if the parties file a stipulation to participate in mediation or another ADR process.

Rule 1640.4 adopted effective January 1, 2000.

Rule 1640.5. Status conference statement

- (a) In the two pilot program courts selected to make mandatory referrals to mediation, the court shall require, by local rule, that, prior to the status conference, the parties serve and file an early mediation status conference statement. This statement shall include:
- (1) A discussion of the appropriateness of the case for referral to mediation; and
- (2) A list of three nominees to serve as mediator.
- (b) In the other pilot program courts, the court may provide for a status conference statement by local rule.

Rule 1640.5 adopted effective January 1, 2000.

Rule 1640.6. Selection of mediator

- (a) Within 15 days of filing a stipulation to participate in mediation or of being ordered to mediation by the court, the parties shall select a mediator and provide the court with written notice of the name, address, and telephone number of the mediator selected. The mediator selected by the parties need not be from the panel of mediators maintained by the court under rule 1640.3.

- (b) In the two pilot program courts selected to make mandatory referrals to mediation, if the parties do not select a mediator within the time period specified in subdivision (a) above, then no later than 20 days after the stipulation to mediation is filed or the case is ordered to mediation by the court, the court shall select a mediator from the panel of mediators provided for in rule 1640.3.
- (c) In the pilot program courts that are not authorized to make mandatory referrals to mediation, the court shall provide by local rule for the mediator selection procedure to be followed if the parties do not select a mediator within the time period specified in subdivision (a) above.

Rule 1640.6 adopted effective January 1, 2000.

Rule 1640.7. Compensation of mediators

- (a) In the two pilot program courts selected to make mandatory referrals to mediation:
- (1) The court shall provide for the compensation of mediators on its panel of mediators who provide mediation services in the pilot program. Parties ordered to mediation pursuant to Code of Civil Procedure section 1730 et seq. shall not be required to pay a fee for the services of a mediator on the court's panel of mediators.
 - (2) Unless the court specifically approves court compensation for a mediator who is not on the court's panel of mediators, the parties shall be responsible for any fees for such mediator's services. The court shall, by local rule, establish a procedure for parties to submit requests for court compensation of mediators who are not on the court's panel but who were selected by the parties to provide mediation services in cases ordered to mediation under Code of Civil Procedure section 1730 et seq. The rate of compensation paid to mediators who are not on the court's panel shall not be higher than the rate paid to mediators on the court's panel. The court may provide by local rule for a maximum amount of fees that it will pay to mediators who are not on the court's panel.
- (b) In the other pilot program courts, unless otherwise provided by local rule, the parties shall be responsible for paying any fees for the mediator's services.

Rule 1640.7 adopted effective January 1, 2000.

Rule 1640.8. Filing of statement by mediator

Within 10 days of the conclusion of the mediation, the mediator shall file a statement on Judicial Council Form ADR-100, advising the court whether the mediation ended in full agreement, partial agreement, or nonagreement.

Rule 1640.8 adopted effective January 1, 2000.

TITLE SIX. Judicial Administration Rules

CHAPTER 3. Trial Court Budget and Fiscal Management

Rule 6.703. Acceptance of Credit Cards by Trial Courts

(a) [Delegation of authority to Administrative Director of the Courts]

The Administrative Director of the Courts is authorized, under rule 6.80, to approve on behalf of the Judicial Council requests from the trial courts to accept credit cards for the payment of court fees or to impose a charge for the use of credit cards. The authority is given to the Judicial Council by Government Code section 6159.

(b) [Standards for use of credit cards] The Administrative Director is authorized to approve requests under subdivision (a) for acceptance of credit cards if all of the following are true:

- (1) The court either (i) imposes a fee for the use of the credit card, (ii) demonstrates that the cost of acceptance of credit cards is not greater than the cost of acceptance of other means of payment of fees, or (iii) demonstrates that it can absorb the cost of the acceptance of the credit card.
- (2) The court has obtained a credit card acceptance contract that is competitive with other possible contracts the court could obtain.
- (3) The court provides alternative means for a person to pay court fees.

(c) [Standards for charge for the use of credit cards] The Administrative Director is authorized to approve requests under subdivision (a) for the imposition of a charge for the use of credit cards if both of the following are true:

- (1) The proposed fee is not greater than the cost for acceptance of a credit card; and
- (2) The proposed fee would not result in an undue hardship on people wishing to use credit cards for payment of fees.
- (d) **[Referral to Judicial Council]** The Administrative Director may refer any request under subdivision (a) to the Judicial Council for its action.
- (e) **[Existing approvals ratified]** The approval of any board of supervisors for any trial court to accept credit cards or charge a fee for the use of credit cards that was effective as of December 31, 1999, is ratified by the council as of January 1, 2000.

Rule 6.703 adopted effective January 1, 2000.